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**Appointments to fill vacancies in subsidiary organs and other appointments: appointment of the judges of the United Nations Dispute Tribunal**

**Programme budget for the biennium 2016-2017**

**Administration of justice at the United Nations**

# Findings and recommendations of the Interim Independent Assessment Panel on the system of administration of justice at the United Nations, and revised estimates relating to the programme budget for the biennium 2016-2017

## Report of the Secretary-General

*Summary*

As requested by the General Assembly in its resolution 69/203, the Secretary-General hereby submits his comments on the recommendations contained in the report of the Interim Independent Assessment Panel on the system of administration of justice at the United Nations (A/71/62/Rev.1), which was established under the same resolution. The Secretary-General has prepared his comments and recommendations on the basis of the findings and recommendations of the Panel after having held consultations with stakeholders in the system, including staff.

The Secretary-General shares the view of the Panel that the objectives of the system of administration of justice at the United Nations have been met to a very great extent and that the system has made a good start and is an improvement over the previous system. With respect to enhancements to the system, he requests the General Assembly to give due consideration to his recommendations.

* A/71/150.

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The present report also contains proposed revised estimates in the amount of $2,502,800 (net of staff assessment) relating to the implementation of the recommendations under section 1, Overall policymaking, direction and coordination, section 29A, Office of the Under-Secretary-General for Management, section 29C, Office of Human Resources Management, section 29D, Office of Central Support Services, and section 36, Staff assessment, of the programme budget for the biennium 2016-2017.

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# I. Introduction

1. In its resolution 69/203, the General Assembly decided that the Secretary-General should constitute a panel of experts to conduct an interim independent assessment of the system of administration of justice in all its aspects, with particular attention to the formal system and its relation with the informal system, including an analysis of whether the aims and objectives of the system set out in Assembly resolution 61/261 were being achieved in an efficient and cost-effective manner.

2. Those aims and objectives were set out by the General Assembly in paragraph 4 of resolution 61/261:

> "Decides to establish a new, independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice consistent with the relevant rules of international law and the principles of the rule of law and due process to ensure respect for the rights and obligations of staff members and the accountability of managers and staff members alike".

3. The General Assembly decided that the panel should be appointed from a pool of experts drawn from all regional groups and judicial systems, selected to ensure the independent nature of the assessment, taking into account geographical representation and gender balance, and that it should have a broad mix of expertise, comprising members with knowledge of internal United Nations processes and United Nations intergovernmental legislation, as well as judicial experience, knowledge of internal labour dispute mechanisms and knowledge of different legal and justice systems, including expertise in employment and/or human rights law.

4. The Interim Independent Assessment Panel was established accordingly, and its report (A/71/62/Rev.1) was submitted to the Secretary-General and transmitted to the General Assembly.

5. Following the receipt of the report, the Chef de Cabinet requested the views of the Secretariat, the separately administered funds and programmes, staff representatives, the judges of the United Nations Appeals Tribunal and of the United Nations Dispute Tribunal, the Internal Justice Council and the international organizations and entities that use the Appeals Tribunal as their final resort, on the findings and recommendations of the Panel. The comments received served as the basis for further consultation processes, including with staff representatives at an ad hoc videoconference of the Staff-Management Committee.

# II. Overview

6. The Secretary-General welcomes the report of the Panel. As chief administrative officer of the Organization, he has a direct interest in and responsibility for ensuring that the internal justice system functions fairly and efficiently as a conflict resolution and accountability tool and a vital element of organizational governance. After six years of operation of the internal justice system, the interim independent assessment conducted in 2015 provided a timely opportunity to examine the functioning of the system and identify areas for enhancement.

7. The Secretary-General fully shares the view, expressed by the General Assembly in resolution 61/261, that an independent, transparent, professionalized, adequately resourced and decentralized system of administration of justice is a necessary condition for ensuring fair and just treatment of United Nations staff. He is pleased to note that the Panel found that those objectives had been met to a very great extent and that the system had made a good start and was an improvement over the previous system (see A/71/62/Rev.1, summary).

8. A substantial portion of the report reflects the consultations undertaken by the Panel and presents a summary of the views of stakeholders on the functioning of the internal justice system. Since stakeholders have differing roles and experiences in the system, it is not surprising that their views sometimes conflicted. While the views of stakeholders, including their experiences and perceptions, should be acknowledged, care should be taken in relying on perceptions. Objective data and substantive analysis must play a critical role, especially when it is unclear how representative perceptions are and in the light of the Panel's finding that there is a lack of knowledge about the system on the part of many stakeholders.

9. At times, the Panel does not state whether or to what extent its findings and recommendations are intended to include the separately administered funds and programmes or only the Secretariat. For example, the report describes the functioning of the Management Evaluation Unit in the Secretariat and makes recommendations related to it. As the Panel explicitly distinguishes the management evaluation process carried out at the funds and programmes (ibid., footnote 15), it is understood that references to recommendations applicable to the Unit are not intended to apply to the funds and programmes (for example, recommendations 20, 26, 36, 37 and 38). Likewise, references to "field missions" (for example, in recommendation 28) are understood to refer to peacekeeping staff in the field, not to the funds and programmes. Moreover, some of the Panel's references to "the Organization" appear to include only the Secretariat (see, for example, para. 54, describing representation of the Secretariat in disciplinary cases; counsel for the funds and programmes handle disciplinary cases for their own staff).

10. Certain findings and recommendations appear to be for the consideration of the Tribunals rather than the Secretary-General. In some of its findings and recommendations, the Panel appears to opine on how the Tribunals should interpret their statutes and exercise their discretion, which are matters for the Tribunals.

## III. Comments

11. To the extent possible, the comments of the Secretary-General set out below follow the order of the Panel's report, which in turn reflects the elements set out in paragraph 4 of resolution 61/261. The Panel's recommendations are reproduced below, and the related findings are referenced in parentheses.

## A. Independence (recommendations 1-8)

### 1. Office of Administration of Justice

*Recommendation 1: The Office of Administration of Justice should reorganize the distribution of the offices of its respective components in New York.*

12. As noted by the Panel (para. 167), the former Redesign Panel on the United Nations system of administration of justice had recommended the establishment of the Office of Administration of Justice in order to provide for institutional independence for the system of justice and its budgetary and operational autonomy. The Office was established by the General Assembly in its resolution 62/228. Its independence was recognized by the Assembly in its resolution 65/251 and codified in the Secretary-General's bulletin on the organization and terms of reference of the Office of Administration of Justice (ST/SGB/2010/3).

13. The Panel observed that the Office of Administration of Justice was now well established, that the functions, roles and responsibilities of the respective stakeholders were well respected by all and that the Office contributed to the smooth functioning of the justice system (paras. 322 and 323). The Panel was of the view that Office was an independent entity and was not influenced by the Secretary-General (para. 322).

14. The Panel recommended that the Office of Administration of Justice reorganize the distribution of the offices of its respective components in New York, on the basis that some stakeholders were of the view that the co-location of the Office on the same floor as judges of the Dispute Tribunal and the Registries in New York created a perception that the Tribunals were under the direct authority of the Administration (para. 79). This perception has no basis in fact.

### 2. Office of Staff Legal Assistance

*Recommendation 2: To protect the counsel-client relationship, the legal officers of the Office of Staff Legal Assistance should be granted a "functional exemption" from those staff rules that may be incompatible with the independence from the Administration that they require to perform their duties (paras. 172 and 326).*

*Recommendation 3: The status of counsel for United Nations staff members serving as legal officers in the Office of Staff Legal Assistance should be officially established, thus granting a functional exemption from those staff rules that may be incompatible with their independence from the Administration in the performance of their duties (para. 172).*

15. The Panel did not specify what the "status of counsel" would entail or how it would be applied, nor did it identify which staff rules might be incompatible with the operational independence of the Office of Staff Legal Assistance.

16. The mandate of the Office of Staff Legal Assistance is to provide legal assistance to staff members in an independent and impartial manner. This was confirmed by the General Assembly in its resolutions 65/251 and 66/237. The Secretary-General also confirms the importance of the operational independence of the Office and notes that that independence has been codified in ST/SGB/2010/3.

### 3. Registries

*Recommendation 4: A clearer institutional link between the Registries and the Tribunals should be established and the status of officer of the court for United Nations staff members for as long as they serve as Registrars or staff of the Registries should be officially created (para. 173).*

17. The Panel did not explain, and it is unclear, how designating staff of the Registries as "officers of the court", a designation often used to describe counsel representing parties before a national court, would enhance judicial independence. The institutional link between the Tribunals and the Registries of the Appeals Tribunal and the Dispute Tribunal is established through the Tribunals' rules of procedure and ST/SGB/2010/3. The mandates of the Registries include the provision of substantive, technical and administrative support to the judges of the Tribunals in the adjudication of cases. The rules of procedure and ST/SGB/2010/3 expressly recognize the authority of the judges in relation to judicial matters.

*Recommendation 5: Judges should have a formal role in the process of selection and appointment of the Registrars and their staff, as well as in the evaluation of their performance (para. 173).*

18. Since administrative decisions relating to selection/appointment and performance evaluation may come before the judges for adjudication, to involve the judges in such decision-making would raise concerns regarding a conflict of interest.

19. Moreover, the implementation of this recommendation would be inconsistent with Article 101 of the Charter of the United Nations, which prescribes that the authority to appoint staff rests with the Secretary-General under regulations established by the General Assembly. It would also be inconsistent with the Organization's staff selection and performance management systems.

20. The current practice of consulting the judges informally with respect to staff selection and performance management within the Registries would seem to provide an appropriate and effective level of involvement.

*Recommendation 6: The functions of the Principal Registrar in support of the Tribunals should be further clarified (para. 175).*

21. The core functions of the Principal Registrar are enumerated in section 4 of ST/SGB/2010/3 and include overseeing the activities of the Registries "without prejudice to the authority of the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal in relation to judicial matters". The Panel observed that most stakeholders had expressed satisfaction with the Principal Registrar's functions, with none expressing dissatisfaction (para. 342).

### 4. The Tribunals

22. The Secretary-General agrees with the Panel that an important element of the rule of law is a qualified and independent judiciary operating within a transparent and effective internal justice system, making decisions on merits without fear or favour from the Administration (para. 190).

*Recommendation 7: The legal status of judges of the Tribunals has to be further clarified:*

(a) *The emoluments and conditions of service of the Dispute Tribunal judges should be established specifically for them and not by reference to the D-2 level;*

(b) *It should be clearly specified that the only "rank" that the judges of the Tribunals possess is that of a judge of the internal judicial system of the United Nations;*

(c) *The judges of the Appeals Tribunal should be recognized as officials other than Secretariat officials and should be granted the privileges and immunities currently enjoyed by the Dispute Tribunal judges under article V, section 18, of the Convention on the Privileges and Immunities of the United Nations (para. 180).*

23. The Panel took the view that the independence of the judiciary was linked to the issue of their status (para. 176) and made several proposals in that regard.

24. With respect to the issue of the judges' emoluments and conditions of service, the Dispute Tribunal judges are paid by reference salaries at the D-2 level. Such reference merely defines the salary amount, not the legal status of the judges. This approach is in line with the General Assembly's decision that any change in the privileges and immunities accorded to the judges would not entail a change to "rank" or compensation (see resolution 68/254, para. 31). The same approach to emoluments and conditions of service is used for officials other than Secretariat officials, such as the Chair of the Advisory Committee on Administrative and Budgetary Questions and the inspectors of the Joint Inspection Unit.

25. With respect to "rank", the General Assembly has appointed the judges as judges of either the Dispute Tribunal or the Appeals Tribunal (see A/63/PV.76, A/63/PV.77, A/63/PV.78, A/65/PV.75, A/66/49 (Vol. III), A/69/49 (Vol. II) and A/70/PV.57).

26. Lastly, regarding the privileges and immunities of the Appeals Tribunal judges, the General Assembly decided in its resolution 70/112 that the judges of both Tribunals were to be considered officials other than Secretariat officials under the Convention on the Privileges and Immunities of the United Nations.

*Recommendation 8: Both Tribunals should submit their annual reports directly to the General Assembly and their Presidents should be invited to present them to the Assembly (para. 183).*

27. The Secretary-General notes that, pursuant to General Assembly resolutions (most recently, resolution 70/112), the Tribunals have a channel of communication with the Assembly by way of the annual report of the Internal Justice Council. The judges' views are submitted to the Assembly as received by the Council (see, for example, A/70/188, para. 141). This manner of reporting would appear to permit the judges to speak through their published judgments with respect to cases and to convey their views on other matters to the Assembly through this channel, as approved by the Assembly. It is, however, for the Assembly to consider this recommendation.

## B. Transparency (recommendations 9-13)

28. The Secretary-General notes the Panel's finding that the justice system has become more transparent (summary).

*Recommendation 9: Knowledge of the system on the part of all staff members should be increased in order to ensure its universal accessibility (para. 198).*

29. Steps have already been taken to ensure that staff members have access to information regarding the internal justice system. The Staff Regulations of the United Nations and Staff Rules and promulgated policy guidance, as well as information on the administration of justice at the United Nations, are available on local intranet sites of the Secretariat and funds and programmes. Human resources staff at all duty stations are available to direct staff to the appropriate resources. Online resources are crucial, as are print and audiovisual materials that describe the internal justice system and relevant offices that can assist staff and managers in addressing work-related concerns. The Office of Administration of Justice is redesigning and expanding its website in order to provide as much information as possible about the formal system, including how it works, the procedures that must be followed, the deadlines that apply and the resources that are available to assist staff.

30. Nevertheless, the human connection is often the most effective means to convey information and answer questions. The Office of Administration of Justice, including the Office of Staff Legal Assistance, and the Management Evaluation Unit have conducted and continue to conduct outreach missions to offices away from Headquarters, including field missions. Some funds and programmes have hosted outreach initiatives of the Office of Staff Legal Assistance. Future missions will focus on duty stations where the internal justice system has no physical presence and in the field, on the basis of the premise that staff in those locations face more challenges in gaining access to information and the system. The internal justice system has been added as a topic for induction training for new staff and senior managers, describing both the formal and informal components. Discussions are under way about the further integration of the administration of justice into staff induction events.

31. Outreach is also an integral part of the activities of the Office of the Ombudsman and Mediation Services, which seeks to reach as many staff and managers as possible, in line with its mandate to promote informal resolution and conflict management skills. With seven regional offices, it is geographically dispersed and well placed to conduct mission visits to various duty stations, including high-risk ones. Staff of the Office staff routinely provide information not only on the informal system, but also on the formal processes available to staff. The Office is also increasing its focus on developing and delivering presentations and workshops that will impart practical conflict management skills.

*Recommendation 10: The Dispute Tribunal should apply standard criteria regarding the need to hold oral hearings. The Appeals Tribunal should increase the number of oral hearings (para. 264).*

32. The holding of oral hearings by the Tribunals is a matter of judicial discretion. The Secretary-General notes that article 16 of the rules of procedure of the Dispute

Tribunal provides that the judge hearing a case may hold oral hearings and that a hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure. In enacting the statute of the Appeals Tribunal, the General Assembly gave the Tribunal discretion as to whether to grant a request for an oral hearing.

*Recommendation 11: The Appeals Tribunal should enhance the reasoning in its judgments (para. 197).*

33. The Secretary-General considers this to be a matter for the Appeals Tribunal.

*Recommendation 12: The Office of Administration of Justice should further improve the search engine of the Tribunals' jurisprudence (para. 199).*

34. The Secretary-General recalls that in his previous report on the administration of justice at the United Nations (A/70/187), he stated that the Office of Administration of Justice was working on enhancing the jurisprudential search engine. It is expected that that work, which will add advanced search capabilities, will be completed by 31 July 2016.

*Recommendation 13: The Organization should further consolidate rules, regulations and instructions in a single manual and make them easily accessible to and understandable by staff. The Organization should further improve the transparency of decision-making by management (paras. 205 and 206).*

35. The Secretary-General notes that the *Human Resources Handbook* is available online and is regularly updated. All staff regulations and rules and all relevant administrative issuances, information circulars and guidelines are included in the *Handbook*. When administrative issuances are amended, the amendments are consolidated into the main document in the *Handbook*. The *Handbook* is accessible in English and French to staff members at all duty stations across the global Secretariat. During the period from 1 June 2014 to 31 January 2016, the *Handbook* had 271,190 online visits. The funds and programmes have made similar resources available to their staffs.

36. The Secretary-General welcomes the Panel's observation regarding the Organization's efforts in recent years to increase the transparency of management's decision-making. He is committed to continuing those efforts to encourage and increase transparency at all levels of managerial decision-making, including in the field. The efforts include issuing guidance, engaging in outreach, conducting training and participating in ongoing dialogue, while at the same time ensuring adequate protection of confidential information pertaining to staff members.

## C. Professionalization (recommendations 14-16)

37. The Panel was of the view that the system was professionalized at almost all levels (summary) and made three recommendations with respect to further professionalization.

*Recommendation 14: Provision should be made for knowledge of human rights law and international law in the criteria for appointment of judges, with proven practical experience in administrative law and criminal justice and relevant institutional knowledge being desirable. Due diligence should be exercised in the recruitment process (para. 210).*

38. The Secretary-General notes that the internal justice system addresses alleged violations of staff members' contracts of employment and conditions of service and applies the Organization's own rules, regulations and administrative issuances. Accordingly, the system engages primarily administrative law, and recourse to national law, to international public or private law or to criminal law (which has different procedural safeguards, due process requirements and evidentiary burdens) is less frequent.

39. The Secretary-General is of the view that proven practical experience in administrative law should be the principal requirement for judicial candidates. While knowledge of human rights law and international law would be an asset, requiring such knowledge as an additional formal qualification could reduce the numbers of eligible candidates and inadvertently rule out candidates with extensive experience in administrative law.

40. The Secretary-General suggests that knowledge of human rights law and international law could be better addressed through continuing professional education of the judges, which is contemplated in the code of conduct for judges of the Tribunals, which was approved by the General Assembly in its resolution 66/106 and which provides that the judges must uphold and respect the principles set out in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

41. In resolution 69/203, the General Assembly approved amendments to the statute of the Appeals Tribunal with respect to the qualifications of Appeals Tribunal judges. The Secretary-General had suggested in a previous report (see A/69/227, para. 173) that the Assembly consider amending the statute of the Dispute Tribunal to add impartiality and fluency in either English or French to the qualifications of Dispute Tribunal judges to bring it into line with the Appeals Tribunal statute. He indicates that this would be an opportune time to do so.

*Recommendation 15: There should be a better induction process for judges before they assume their duties (para. 211).*

42. The Secretary-General supports the improvement of the induction process for new judges and notes the Panel's emphasis on the framework of laws and rules, established jurisprudence, the ethos and inner functioning of the United Nations and the goals of both justice and a harmonious work environment (para. 211). He is of the view that the experience of the past seven years should inform the induction process. While the Organization stands ready to provide information and support, the process is appropriately led by the Tribunals themselves. In that regard, the Secretary-General understands that the Tribunals conducted induction programmes for the new judges who took office on 1 July 2016.

*Recommendation 16: A single code of conduct should be introduced for all counsel acting before the Tribunals (para. 215).*

43. This recommendation is in the process of being implemented, as requested by the General Assembly in resolution 70/112.

## D. Decentralization (recommendations 17-21)

44. The Secretary-General notes the Panel's finding that the system is more decentralized than before and agrees in principle that justice should be as close as possible to the people it serves (summary). The Panel made five recommendations with respect to further decentralization.

*Recommendation 17: The mobility of the Dispute Tribunal should be increased, in accordance with article 5 of its statute, thus enabling the Tribunal to reach duty stations in the field and carry out hearings in the appropriate conditions (paras. 223 and 372).*

45. The Secretary-General agrees that transparency and access to justice in a global Organization may be enhanced by greater mobility on the part of the Dispute Tribunal (para. 223). Holding hearings at other duty stations, including in the field, may contribute to greater awareness and knowledge of the system among staff. He recalls that articles 5 and 6 of the Dispute Tribunal statute contemplate hearings at other duty stations and that the Dispute Tribunal has convened hearings outside its three duty stations when it has considered it appropriate. The Secretary-General recognizes that increased mobility will require additional resources. Accordingly, he agrees with the recommendation and recommends an increase in resources to support increased mobility.

*Recommendation 18: The Administration should adopt proper measures to facilitate the functioning of the Dispute Tribunal, with regard to time-zone differences between Headquarters and the Tribunal locations (para. 226).*

*Recommendation 19: The Administration should introduce a degree of decentralization (para. 224).*

46. The Organization functions across virtually all time zones. Although challenges may arise from the need to communicate across time zones, these are usually adequately addressed by adopting proper means of communication. For example, applicant's and respondent's counsel may file with the Dispute Tribunal across all time zones through the electronic e-filing system. Similarly, the Organization makes arrangements to ensure that information technology service is provided to all duty stations. Thus, advice from professionals in the fields of human resources, legal affairs and conduct and discipline in different locations can typically be provided in real time or within 24 hours. Telephonic and digital face-to-face communication between duty stations is available for all or part of the day. Multi-party videoconferencing is utilized throughout the Organization to facilitate real-time communication requiring more sustained interaction among various parties, including, for example, during staff-management consultations.

47. Nonetheless, at times the Dispute Tribunal continues to face significant communication challenges, especially in Nairobi. Videoconferencing links sometimes cut out, as do telephone connections during hearings. Where feasible,

arrangements are made for witnesses to travel to a nearby United Nations office to be connected to hearings. Difficulties remain where the only possible way to link witnesses in remote locations is by mobile telephone. The Organization is working to resolve these technical challenges.

48. The vast majority of the non-disciplinary appeals brought by field-based Secretariat staff are filed before the Dispute Tribunal in Nairobi. To facilitate the functioning of the Dispute Tribunal in those cases, the Administrative Law Section of the Office of Human Resources Management currently has three legal officers based in Nairobi to represent the respondent. The United Nations Office at Nairobi is assisted by a legal officer representing the respondent in cases brought before the Dispute Tribunal by Office-administered staff, and the same applies to the United Nations Human Settlements Programme, the United Nations Environment Programme and the Office of the United Nations High Commissioner for Refugees. The Economic Commission for Africa in Addis Ababa is supported by legal officers in matters relating to the administration of justice, including representation before the Dispute Tribunal in Nairobi. Before the Dispute Tribunal in Geneva, the respondent is generally represented by legal officers based in Geneva. When that is not the case, the Administration always seeks to facilitate the functioning of the Dispute Tribunal by arranging for its representative to appear through electronic means, often outside working hours, if required by the Tribunal, or to travel to Geneva for extended hearings. Similarly, the Office of Staff Legal Assistance has legal officers based in Nairobi, Addis Ababa, Beirut, Geneva and New York to assist staff in administration of justice matters, including representation before the Dispute Tribunal.

49. In the case of challenges to imposed disciplinary measures, the Administration is represented by legal officers based in New York in order to provide efficient representation before the Dispute Tribunal by the same legal officers who worked on the disciplinary matter. With regard to the logistics of holding hearings in disciplinary matters, the parties, their representatives and witnesses are often not co-located with one another or with the Dispute Tribunal. This is addressed through arrangements to facilitate the functioning of the Dispute Tribunal in Nairobi, Geneva and even New York. For shorter case management hearings, typically lasting between 30 and 60 minutes, the legal representatives of both applicant and respondent often attend by telephone. For hearings on substantive matters, videoconferences are typically arranged for one or more days. Participants in the hearings join the videoconferences from around the world, through local offices of the Secretariat or the funds and programmes. The respondent's representative may travel to Dispute Tribunal hearings in Geneva and Nairobi because of the complexity of the case and the length of the hearings. This was also the case when the Dispute Tribunal held hearings in Addis Ababa and Kinshasa. As there are relatively few challenges to imposed disciplinary measures per year (fewer than 10 applications are filed on average), the current arrangements are considered adequate to meet the needs of all stakeholders.

50. It is not clear whether recommendations 18 and 19 were also directed to the funds and programmes, which have smaller Dispute Tribunal caseloads and higher settlement rates and, consequently, fewer scheduling challenges. The number of cases would not seem to warrant the expense necessary to maintain a number of additional legal offices.

*Recommendation 20: The Management Evaluation Unit should have officers in the field (para. 227).*

51. The Secretary-General considers that implementing this recommendation could potentially have negative effects on the integrity of the management evaluation process and on consistency in the application of rules and policies. Assigning certain functions of the Management Evaluation Unit to local management officers at the duty stations would contradict the Panel's consideration of the importance of the Unit's independence from line management, as those officers are otherwise accountable to management at the duty station where the contested decision was taken, not to the Under-Secretary-General for Management.

52. The management evaluation function is centralized in the Department of Management of the Secretariat, in the light of the Department's responsibility for formulating policies and procedures and providing strategic guidance on human resources and finance throughout the Secretariat. At the time when the function was proposed, the Secretary-General noted that no other Secretariat office had the requisite background or capacity to evaluate the consistency of organizational rules, policies and procedures and their application in different locations across the Organization (see A/62/294, para. 86). Thus, along with the aim of ensuring objectivity in management evaluation, centralization of the function is required to ensure consistency in the application of rules.

*Recommendation 21: The Office of Staff Legal Assistance should have means for direct counsel-client interface (para. 228).*

53. The Office of Staff Legal Assistance is decentralized, with offices in Addis Ababa, Beirut, Geneva, Nairobi and New York. The Office serves staff members worldwide, including many at field missions. Legal officers may be required to physically attend hearings of the Dispute Tribunal at another duty station on behalf of clients, either as ordered by the Tribunal or because telephonic or videoconference communications are unreliable.

54. The Panel observed that, owing to underresourcing, legal officers of the Office of Staff Legal Assistance could not always have sufficient direct communication with their clients to provide appropriate legal assistance and representation (para. 228).

55. The Secretary-General suggests that this issue be addressed in two ways: first, by increasing the travel resources to strengthen the ability of the Office of Staff Legal Assistance to attend hearings before the Tribunals in person where so ordered by the Tribunal or where necessary for effective representation; and second, by providing mobile telephones to all legal officers of the Office so that they can talk to staff members at any time to seek instructions and coordinate activities accordingly.

## E. Access to justice (recommendations 22 and 23)

*Recommendation 22: The Organization should enhance provision of ready access to focal points, staff training, jurisprudential guides and resources, among other things, in field offices and missions (para. 236).*

56. This recommendation appears to be related to recommendation 9 above and has been addressed in the context of that recommendation.

57. With respect to jurisprudential guides, the feasibility of having professional summaries and keywords prepared for each judgment of the Tribunals in order to assist all staff in understanding the Tribunals' jurisprudence has been explored. Preliminary estimates suggest that such summaries and keywords could be prepared at a cost of approximately $60,000 for all of the Appeals Tribunal and Dispute Tribunal judgments rendered to date and approximately $10,000 per year going forward. The Secretary-General recommends that the preparation of such summaries and keywords be pursued.

*Recommendation 23: The Organization should provide effective recourse to all who are in an employment or contractual relationship with the United Nations by extending the access of the justice system to its total workforce (paras. 233 and 243).*

58. The Secretary-General notes that the same recommendation was made in 2006 by the Redesign Panel on the United Nations system of administration of justice (see A/61/205 and Corr.1) and was considered repeatedly by the General Assembly, which ultimately decided not to allow non-staff personnel to gain access to the internal justice system (see decision 62/519 and resolutions 62/228, 63/253, 64/233 and 65/251).

59. Non-staff personnel comprise various categories (including interns, United Nations Volunteers, volunteers other than United Nations Volunteers, type II gratis personnel, daily paid workers, consultants, individual contractors, experts on mission not retained by means of a consultant contract, and officials other than Secretariat officials), each with its own legal framework. If the Panel's recommendation were to be accepted, the internal justice system would have to assume, handle and adjudicate very different legal frameworks, which would have significant financial and legal implications.

60. From a financial perspective, the number of non-staff personnel has been estimated to be about 45 per cent of the total workforce (see JIU/REP/2014/8), which would mean almost a doubling of the number of individuals having access to the system. In a previous report of the Secretary-General it was estimated that, if the system's scope were expanded to include non-staff personnel, the expected number of appellants would require twice the number of full-time and half-time judges, staff of the Dispute Tribunal Registries and the Appeals Tribunal Registry and lawyers representing both parties, including the respondent (see A/65/373 and Corr.1, paras. 180 and 182).

61. From a legal perspective, allowing non-staff personnel to gain access to the internal system would lend support to claims on their part that they are staff and, as such, entitled to all the benefits and allowances currently granted to staff, such as health insurance, pensions and benefits. The expansion of the scope and jurisdiction of the internal justice system to individuals other than United Nations staff members might be misunderstood as implying that non-staff personnel are assimilated to staff, even though their terms of employment and the recourse available to them for resolving employment grievances are significantly different from those of staff members.

62. For the funds and programmes, expanding access to the internal justice system to the categories of non-staff personnel, who number more than 40,000 (and are part of the 45 per cent mentioned above), would have particularly burdensome financial, human resources and support implications. Some funds and programmes employ more non-staff than staff personnel. Furthermore, under the current cost-sharing model for the internal justice system the funds and programmes contribute on the

basis of the headcount of their eligible staff, not the extent of their utilization of the internal justice system. Thus, some funds and programmes would see their resource requirements for the internal justice system more than doubling, potentially redirecting their voluntary funding away from programme implementation.

## F. Rule of law (recommendation 24)

*Recommendation 24: The Organization should establish legal provisions and corresponding procedures to protect staff members from retaliation for appearing as witnesses or for lodging an appeal (paras. 245 and 246).*

63. The Secretary-General notes that staff rule 1.2 (g) addresses the Panel's concerns. It provides that:

> "Staff members shall not disrupt or otherwise interfere with any meeting or other official activity of the Organization, including activity in connection with the administration of justice system, nor shall staff members threaten, intimidate or otherwise engage in any conduct intended, directly or indirectly, to interfere with the ability of other staff members to discharge their official functions. Staff members shall not threaten, retaliate or attempt to retaliate against such individuals or against staff members exercising their rights and duties under the present Rules."

64. Staff members can challenge violations of rule 1.2 (g) in two ways. First, administrative decisions taken on the basis of a retaliatory motive, including retaliation for a staff member lodging an appeal or appearing as a witness in cases before the Dispute Tribunal, are unlawful and may be challenged in the internal justice system.

65. Second, intimidation or retaliatory conduct within the workplace may also be addressed through instruments, such as Secretary-General's bulletin ST/SGB/2008/5, that prohibit discrimination, harassment, including sexual harassment, and abuse of authority.

66. In the light of the above, the Secretary-General considers that there is no need to establish additional legal provisions and procedures to protect staff from retaliation for exercising their rights to avail themselves of, or participate in, the internal justice system.

## G. Due process (recommendations 25-27)

67. The Secretary-General concurs with the Panel that a system of justice consistent with due process requirements presupposes clear procedural rules and procedural uniformity (para. 259). He also agrees that it is important to maintain a measure of consistency in legal proceedings.

*Recommendation 25: More detailed rules of procedure should be adopted to enhance consistency in proceedings (para. 259).*

68. The Panel did not identify any inconsistencies in proceedings that required more detailed rules of procedure or any existing rules of procedure that required amendments to enhance consistency as recommended.

69. The Secretary-General suggests that the following matters could benefit from more detailed rules of procedure to enhance consistency: the calculation of pre- and post-judgment interest when awarded; the procedure for consolidating cases and filing submissions in such a case; and the time allowed to respond to interlocutory motions before the Appeals Tribunal.

*Recommendation 26: The Organization should improve access to documentation by staff members (para. 260).*

70. The Secretary-General considers that staff members currently enjoy an appropriate level of access to documentation at the Management Evaluation Unit stage.

71. While it is part of the formal system, management evaluation is an administrative tool, not a pretrial litigation process. It is a tool enabling management to objectively assess whether an administrative decision has been taken in conformity with the Organization's rules. The relevant documentation relied upon in reaching an outcome on a management evaluation request is clearly identified in the reasoned response to the staff member. If the staff member is not satisfied with the response, he or she may file an application before the Dispute Tribunal and may request the Tribunal to order the Secretary-General to produce specific evidence in his possession, including any document identified in the management evaluation. Under its rules of procedure, the Dispute Tribunal can order the production of evidence for either party at any time, including requiring any person to disclose information necessary for the fair and expeditious disposal of the proceedings.

72. When requests for the production of evidence infringe upon other staff members' right to privacy and confidentiality, the Dispute Tribunal is best placed to weigh the competing interests involved, determine the relevance of the evidence and, if need be, order the preservation of the confidentiality of the evidence. For example, in cases of challenges to selection decisions, which constitute a substantial aspect of the Dispute Tribunal's caseload, documentation relating to the selection exercise often contains confidential and private information regarding staff members other than the staff member litigant.

*Recommendation 27: A mechanism should be introduced with some flexibility for extension or suspension of deadlines when settlement discussions are under way, and the Dispute Tribunal should have authority to grant requests to that effect (paras. 261 and 262).*

73. The Secretary-General observes that the Staff Rules, as well as the Dispute Tribunal statute, provide for the extension and suspension of deadlines when informal settlement discussions are under way.

74. Prior to litigation, the Secretary-General may, in accordance with the Staff Rules, extend the deadlines for management evaluation where parties are exploring informal resolution with the assistance of the Office of the United Nations Ombudsman and Mediation Services. At the litigation stage, the Dispute Tribunal may, in accordance with its statute, suspend deadlines for a limited period.

75. The Secretary-General recognizes the crucial importance of informally resolving disputes, as well as the importance of handling extensions of deadlines efficiently so as to avoid delays in finalizing disputes that cannot be resolved informally. The question of the need for further flexibility in achieving both aims is currently under review.

## H. Accountability (recommendations 28-31)

*Recommendation 28: Heads of field missions should be granted delegated responsibility for conduct and disciplinary cases (para. 268)*

76. The possibility of delegating the disciplinary process to heads of missions has been the subject of extensive consideration and consultation for several years, both before the General Assembly and within the Secretariat, among staff and management (see, for example, A/66/275 and Corr.1, paras. 191-211; A/66/7/Add.6, paras. 77-83; resolution 66/237; A/68/346, annex VII; A/68/530, para. 37; and resolution 68/254). The concept was first proposed by the Redesign Panel in July 2006. During the subsequent discussions, it was agreed that a full-scale delegation of authority should not be pursued owing to fairness and efficiency concerns. However, it was proposed that a partial delegation of authority — allowing heads of missions to impose censures and fines — be put in place on a pilot basis. The pilot project was subsequently postponed because the Secretary-General considered that other initiatives (such as improvements in investigations and the strengthening by the Department of Field Support of quality assurance mechanisms, reporting requirements, key performance indicators and regional and/or intermediate support) had strengthened the Organization's efficiency in addressing conduct and discipline cases and may have superseded the need for a delegation of authority (see A/68/346, annex VII, paras. 10-13). However, a management working group is currently further exploring this issue.

77. In addition to the delegation of authority for the imposition of disciplinary measures, the Secretary-General notes that other measures are already in place to enhance the ability of heads of field missions to directly manage matters of conduct and discipline and to increase the efficiency with which such matters are handled by the Organization.

78. First, heads of field missions are already vested with the authority to conduct investigations into possible wrongdoing by staff members under their responsibility (unless such investigations are undertaken by the Office of Internal Oversight Services (OIOS)). Therefore, the investigative process is already fully decentralized.

79. Second, in December 2012 the Under-Secretary-General for Field Support was delegated the authority to place field mission staff members on administrative leave with pay pending investigation and the disciplinary process, a role that had previously been the responsibility of the Assistant Secretary-General for Human Resources Management (see A/68/346, annex VII, para. 15). The goal in delegating such authority was to reduce the amount of time required for a staff member to be placed on administrative leave with pay, and the delegation has had the added benefit of facilitating the use of administrative leave as an early intervention tool in cases of possible wrongdoing. The authority to place staff members on administrative leave without pay, which can be used only in exceptional circumstances, remains with the Under-Secretary-General for Management.

80. Third, as the jurisprudence of the Tribunals evolves, there is increased certainty and efficiency in the handling of investigations and disciplinary matters. A revision to the administrative instruction governing the investigation and disciplinary process is expected to be promulgated shortly, which will codify the procedures and standards applicable to investigations and the disciplinary process.

This is expected to provide greater certainty and efficiency in the handling of such matters.

81. The Secretary-General continues to consider that the centralization of the disciplinary process has a number of benefits. In particular, it promotes fairness, consistency and efficiency by optimizing the accumulation and sharing of institutional knowledge, improving the Organization's ability to uniformly apply the evolving jurisprudence of the Tribunals, and ensuring that all cases are afforded the same level of scrutiny and review. Furthermore, the Under-Secretary-General for Management, who currently decides on the imposition of disciplinary measures in every case, has a holistic view of disciplinary cases throughout the Organization and can apply that perspective to best effect through a centralized process.

82. In addition to the measures set out above, the Secretary-General is forming an interdepartmental working group to further explore the delegation of authority with regard to disciplinary matters, including placement on administrative leave and the delegation of authority for the imposition of minor disciplinary sanctions, provided that the necessary preconditions are in place.

*Recommendation 29: A comprehensive review should be undertaken of the accountability framework for United Nations peacekeeping (para. 265).*

83. The Panel noted that many components had been developed to strengthen accountability within the Organization, but considered that these had resulted in a patchwork of different elements and processes without an overall policy on the accountability of individuals or offices and corresponding processes to implement and enforce it. The Panel expressed the view that the lack of consistency and effective functioning of the accountability system had an adverse impact on the image of the Organization, especially in cases of allegations of sexual exploitation and abuse in peacekeeping missions (para. 265).

84. The Secretary-General observes that for the past five years, a period that roughly coincides with the lifespan of the new internal system of justice, he has been reporting to the General Assembly on the implementation of the accountability framework in the Secretariat as a whole, specifically on the measures taken and planned to continue to strengthen accountability.

85. The Secretary-General remains committed to preventing and taking strong action to combat impunity with regard to all forms of misconduct, including, most importantly, sexual exploitation and abuse by its personnel. Specifically, with respect to peacekeeping, and as indicated in the Secretary-General's most recent progress report on the accountability system (A/70/668), the programme of action set out in his 2015 report on special measures for protection from sexual exploitation and sexual abuse (A/69/779) contains a number of initiatives aimed at strengthening accountability that are currently being implemented. A full update on the implementation of the programme of action will be provided in the next report of the Secretary-General on special measures for protection from sexual exploitation and sexual abuse.

*Recommendation 30: An assessment should be made of referrals for accountability by Tribunals in a meeting of stakeholders under the auspices of the Internal Justice Council, and more precision should be given to the scope and use of such referrals (para. 282).*

*Recommendation 31: Referrals to accountability should be made only when the persons concerned have been properly heard (para 281).*

86. The referral authority was one of the new features of the reformed system of administration of justice, intended to strengthen accountability within the Organization. The Secretary-General welcomes the opportunity to review the Tribunals' referral authority in a process convened by the Internal Justice Council.

## I. Rights and obligations of staff (recommendation 32)

*Recommendation 32: The Dispute Tribunal should more often award costs against a party that manifestly abused the proceedings and summarily dismiss a case under those circumstances (para. 286).*

87. Article 10.6 of the Dispute Tribunal statute provides that where the Tribunal determines that a party has manifestly abused the proceedings before it, it may award costs against that party. Similarly, article 9.2 of the Appeals Tribunal statute provides that where the Tribunal determines that a party has manifestly abused the appeals process, it may award costs against that party. The Panel observed that this was the right approach and that no additional disincentives were required, and encouraged the Tribunals to make more use of their powers to proactively manage cases and/or to summarily dismiss a case if it is clearly inadmissible (para. 286). The Secretary-General agrees.

## J. Informal system (recommendations 33-35)

*Recommendation 33: Managers should be encouraged to respond to the mediation attempts positively and to be more proactive in initiating mediation processes (para. 294).*

*Recommendation 34: The Administration should ensure that the authority to finalize the mediation settlement is duly delegated to the person participating in it on behalf of management (para. 294).*

88. The Secretary-General welcomes the Panel's support for increasing the use of mediation and recognizes that managers have a key role to play in supporting mediation as a conflict resolution tool. He remains committed to taking concrete measures to foster an organizational culture of effective conflict management and has taken a number of steps to encourage informal conflict resolution, including mediation.

89. In 2014, the Chef de Cabinet sent a communication to all heads of departments, offices and regional commissions in which he recalled the obligation of managers to anticipate and resolve conflicts and encouraged the use of the resources of the Office of the United Nations Ombudsman and Mediation Services to prevent or resolve workplace disputes. It is recognized that efforts to resolve conflict at an early stage through informal means, particularly mediation, help to

preserve working relationships by giving parties the opportunity to reflect on the underlying causes of the problem in a strictly confidential setting and to jointly decide on the desired outcome. The importance of informal dispute resolution, particularly early resolution, is a component of the outreach and training efforts of a number of stakeholders of the internal justice system. For example, the Office frequently carries out outreach and training activities at duty stations and field locations aimed at raising awareness about the benefits of informal resolution, including mediation, and working with all categories of staff to resolve workplace grievances and enhance their ability to address conflict in effective ways.

90. The Management Evaluation Unit, during the course of management evaluation and its outreach activities and in responding to informal queries for guidance, encourages both managers and staff to consider mediation early in the process, as that allows parties to resolve their workplace concerns quickly and efficiently in mutually agreeable ways.

91. The Office of Human Resources Management emphasizes the importance of informal conflict resolution for individuals and teams, and encourages managers to take advantage of the services of the Office of the United Nations Ombudsman and Mediation Services and to participate in the mandatory performance management and development workshop for managers and supervisors. The two Offices have been collaborating to enhance the training offered to staff and managers to assist in developing the skills to manage conflict effectively.

92. The Office of Staff Legal Assistance is also involved in mediation on behalf of staff members in conjunction with the Office of the United Nations Ombudsman and Mediation Services or independently.

93. The Secretary-General agrees that the continuation of those efforts is crucial to safeguarding positive and productive working relationships and promoting organizational health.

94. In cases involving negotiations that might result in a financial settlement, the approval of the Under-Secretary-General for Management is required in the Secretariat, in accordance with the Financial Rules of the United Nations. The separately administered funds and programmes have similar processes. The Secretary-General is committed to ensuring that the managers participating in such settlement discussions are aware of the need to obtain the necessary approvals.

95. It should be noted that the requirement to seek approval from the Department of Management does not apply in all circumstances, as some settlements entail undertakings that local duty stations have delegated authority to agree to and implement.

96. The Secretary-General is committed to promoting greater knowledge of the process and greater clarity of procedures to ensure that the person representing management has the proper authority to make commitments, or prompt access to officials who do. This is necessary for the mediation process to be effective, swift and credible. However, some cases will ultimately require judicial adjudication.

*Recommendation 35: Managers should be properly trained in conflict management (para. 297).*

97. The Secretary-General agrees that training in conflict management is important. Conflict management is addressed from several angles in the Office of Human Resources Management portfolio of learning and development programmes. From a preventive perspective, conflict management is addressed in the Office's communications programmes, ethics programme and Management Development Programme. Performance management workshops for all managers and leaders address the topic of having difficult conversations among managers and staff. In terms of a stand-alone programme, the Office offers managers and staff training on conflict management through the online programme entitled "Collaborative Negotiation Skills", which is available to all staff in the global Secretariat.

98. Building skills to better manage and prevent conflict is also an increasing focus of the work of the Office of the United Nations Ombudsman and Mediation Services, which conducts training sessions and workshops to enhance competence in addressing conflict at all levels of the Organization. Such activities are geared towards team-building, providing effective feedback and managing emotions and change in the workplace. To meet the needs of particular offices, the Office can provide group facilitation aimed at team-building and helping groups to work together effectively, which can be an important factor in preventing conflicts from taking root.

## K. Formal system (recommendations 36-55)

99. The Panel was of the view that the Management Evaluation Unit performed an important function within the internal justice system (para. 319).

*Recommendation 36: The Department of Management should resume the publication of the lessons-learned guides for managers, identifying the systemic issues (para. 312).*

100. The lessons-learned guides for managers are drafted by the Management Evaluation Unit as part of its functions to assist the Under-Secretary-General for Management in strengthening managerial accountability and improving managerial culture in the Organization. However, the Unit faces resource constraints, as indicated below, in carrying out those vital functions. Of the two guides previously anticipated in 2015, one (on performance management and development) was issued on 29 March 2016, and the other is undergoing final review. Another is expected to be issued in late 2016. All lessons-learned guides for managers are available on the Department of Management's intranet page.

*Recommendation 37: The Administration should ensure that Management Evaluation Unit functions can be carried out in compliance with statutory provisions and timelines (para. 319).*

101. The Staff Rules require that the Secretary-General complete management evaluation within 30 days in cases in which the requesting staff member is at Headquarters and within 45 days in cases in which the staff member is located away from Headquarters.

102. The Management Evaluation Unit faces challenges in meeting those deadlines. The management evaluation process entails the need to gather all pertinent information and often requires extensive consultation between the Unit and the decision-making office, other offices involved in the matter and/or the staff member. In addition, efforts to informally resolve disputes can slow down the overall process, as such efforts normally require numerous discussions between the Unit, the decision-making office and the staff member in order to arrive at a coherent recommendation. When viewed in the light of the rigors of the process, the high volume of requests each year (to date, an average of 900 requests annually) and the modest size of the Management Evaluation Unit place a significant strain on the Unit's ability to fulfil its important mandate. The Panel took the view that the Unit was underresourced and indicated that that should be remedied (summary). In order to address this issue, the Secretary-General recommends the establishment of one additional post of Legal Officer (P-3) and one additional post of Legal Assistant (General Service (Other level)) to the staffing of the Unit.

*Recommendation 38: The Management Evaluation Unit should correct the lack of equal access to documentation and information by both sides (para. 316).*

103. This has been addressed above in connection with related recommendation 26.

*Recommendation 39: The responsibility of the legal officers of the Office of Staff Legal Assistance for their decisions in declining representation owing to any motive other than the absence of a reasonable expectation of success should be addressed within the code of conduct for legal representatives (paras. 215 and 330).*

104. This recommendation appears to have been prompted by an apprehension that the Office of Staff Legal Assistance could be perceived as rejecting representation owing mainly to its scarce resources (para. 331).

105. The Secretary-General agrees with the Panel's view that the Office of Staff Legal Assistance is underresourced and its current budget is insufficient even if supplemented by the voluntary funding mechanism (para. 333). Scarcity of resources, however, is not a criterion that the Office applies to the rationing of legal assistance. Rather, decisions to decline representation are based exclusively on the Office's assessment of the merits of the case.

106. The Secretary-General does not consider that the responsibility of the legal officers of the Office of Staff Legal Assistance for decisions to decline representation should be addressed in the proposed code of conduct, as the General Assembly has requested a code of conduct that is applicable to all legal representatives. In the small number of cases in which such a decision has been challenged, the Office has been represented by the Secretary-General. Several alternative options have been carefully considered; however, the Secretary-General is of the view that continuing the current arrangement is preferable.

*Recommendation 40: The United Nations budget should pay for the basic functioning of the Office of Staff Legal Assistance, but additional funding is necessary (para. 334).*

107. The Panel found that there was an overriding need for more resources for the Office of Staff Legal Assistance (para. 407). The Secretary-General agrees. He has previously identified the additional resources that the Office requires as consisting of two Legal Officers (P-4) (one in Nairobi and one in New York), one Legal Assistant

(General Service (Other level)) in Geneva and three Legal Assistants (General Service (Local level)), one in Addis Ababa, one in Beirut and one in Nairobi, and an increase in non-staff resources for communications and travel (see A/66/275 and Corr.1, paras. 83-92, and A/65/373 and Corr.1, paras. 58-69). The non-staff resources have been addressed above in connection with recommendation 21.

108. The Secretary-General is of the view that the funding of the Office of Staff Legal Assistance must be put on a sustainable basis. He has previously opined that the Organization should fund the entire cost of the Office, including the additional resources it requires (see A/68/346, paras. 121-131). He recalls that the Office was established by the General Assembly as an integral component of the system of administration of justice and therefore is an expense of the Organization. He also recalls that the Office provides benefits to both staff and the Organization.

109. He notes the Panel's view that some contribution by staff to fund the Office of Staff Legal Assistance is not unreasonable (para. 334). The current experimental voluntary supplemental funding mechanism is temporary in nature, approved by the General Assembly until 31 December 2016 (see resolution 70/112), and so as a consequence permits additional legal officers to be hired only on a temporary basis, which is not conducive to the continuity of the Office's operation and management. In the event that the General Assembly decides to "regularize" the voluntary supplemental funding mechanism, fixed-term positions should be created on the current demonstrated strength of staff contributions.

110. The Secretary-General is concerned about the Panel's reference to legal advice as the core function of the Office of Staff Legal Assistance (para. 334) and about an apparent error in its interpretation of the Office's statistics. The Panel appears to have inferred that since the Office provided representation in only 12 per cent of its cases, it declined representation in the other 88 per cent, thus downplaying the significance of the Office's representation function. That is not the case. Not all staff members who approach the Office seek representation; many seek only legal advice. The Office rejects approximately one third of the requests for representation, often because an application is time-barred. It is also important to note that in the Office's experience, the overall amounts of time required to provide legal advice and to provide representation are roughly comparable. Thus, it has not in fact been the case that the core function of the Office is limited to legal advice.

111. The Secretary-General is of the view that the representation of staff is a critical element of the internal justice system. He has previously enumerated the hidden costs and delays associated with self-represented applicants (see A/69/227, para. 27, and A/68/346, paras. 18-21), as has the Internal Justice Council (see A/70/188, para. 43, and A/69/205, paras. 110 and 111) and the Dispute Tribunal (see A/70/188, annex III, paras. 36 and 37, and A/69/205, annex I, para. 27). The Panel concurred, opining that self-representation increased the workload of the Registrars and the Tribunals and affected the efficiency and professionalization of the system, as well as the due process rights of staff (para. 263).

112. The Secretary-General recalls that the judges of the Dispute Tribunal have indicated that the representation of staff members is an essential element of the internal justice system and that the role of the Office of Staff Legal Assistance should continue to include representation (see A/69/205, annex I, para. 29; A/68/306, annex II, para. 31; and A/67/98, annex II, para. 26). The Internal Justice Council has previously commended the representation provided by the Office and

the great value it adds to the internal justice system (see A/70/188, para. 54, and A/67/98, paras. 48-52).

*Recommendation 41: The Organization should fill the gap in the grade structure of the Office of Staff Legal Assistance by upgrading one P-3 position to P-4 (para. 335).*

113. The Panel identified (para. 335) the same gap in the structure of the Office of Staff Legal Assistance that had previously been identified by the Internal Justice Council (see A/67/98, para. 46; A/66/158, para. 42; and A/65/304, para. 70), namely, that there was no P-4 legal officer post. Without P-4 posts, there can be no career advancement within the Office. This is a serious problem and an omission in the Office's grade structure. The Office is losing its most experienced P-3 legal officers to other United Nations offices and entities, often within the internal justice system, that can offer them P-4 posts.

114. The Secretary-General agrees that the gap in the grade structure must be remedied, but disagrees with the Panel's recommendation that an existing P-3 post be upgraded to a P-4 post. As indicated above, the Secretary-General is of the view that two P-4 posts are required to strengthen the staffing of the Office of Staff Legal Assistance. Four legal assistant posts are also required, one in each of the Office's offices away from Headquarters, to support the legal officers. He therefore recommends the establishment of two posts of Legal Officer (P-4) (one in New York and one in Nairobi), one post of Legal Assistant (General Service (Other level)) (in Geneva) and three posts of Legal Assistant (General Service (Local level)) (one in Addis Ababa, one in Beirut and one in Nairobi) in the Office.

*Recommendation 42: Judges and Registrars should establish a common approach to the management of staff and resources (para. 338).*

115. ST/SGB/2010/3 prescribes that, under the authority of the Principal Registrar, without prejudice to the authority of the judges in relation to judicial matters, the core functions of the Registrars of both Tribunals include managing the human, financial and other resources allocated to the Registry. The Secretary-General is of the view that those functions should be discharged with due regard for the needs of the judges for support in relation to judicial matters.

*Recommendation 43: The Tribunals should adopt specific measures that will contribute to the development of a consistent body of jurisprudence (para. 343).*

116. The Panel offered no guidance with respect to specific measures, and the recommendation would appear to be contradicted by the Panel's finding that "the system of administration of justice is still evolving" and its statement that it "welcomes the efforts being made by both Tribunals to develop a more harmonized approach in their work" (para. 343). The Secretary-General considers that the adjudication of cases and the resulting jurisprudence are a matter for the Tribunals.

*Recommendation 44: The Tribunals should adopt and apply a mechanism of early resolution of receivability issues (para. 345).*

117. The Panel noted that too often, receivability was itself a matter of repeated dispute and stated that a never-ending debate on receivability was inefficient (paras. 344 and 345). The Panel observed that the Dispute Tribunal should decide on receivability issues early in the litigation process, with the effect of a final decision

in that regard. The Panel suggested that a cost-effective and efficient system required a procedural device, such as a motion to dismiss an application, to be used at the earliest opportunity.

118. The Secretary-General agrees in principle that, in the interest of judicial economy, motions to dismiss applications based on receivability should be filed, considered and ruled upon at the earliest stage possible. No new procedural device for that purpose is necessary, as the Dispute Tribunal already has authority to consider motions on receivability as an initial matter, separately from the merits of a case.

119. The Secretary-General strongly disagrees with the Panel's apparent view that Dispute Tribunal decisions on receivability should not be appealable. Such decisions must remain appealable precisely because they relate to the most basic aspect of the Tribunal's jurisdiction. Decisions on receivability have been overturned on appeal where the Dispute Tribunal unlawfully assumed jurisdiction or, conversely, when it should have assumed jurisdiction but did not. Moreover, a cornerstone of the internal justice system is the two-tier structure that allows for the possibility of appellate review. If receivability decisions could not be appealed, the purpose of having that second layer of review would be vitiated.

*Recommendation 45: The Tribunals should have effective authority to order suspension of action and impediments thereto should be removed (para. 358).*

120. Specifically, the Panel took issue with the limitations that the General Assembly had placed on the Dispute Tribunal's authority to suspend the implementation of contested decisions (paras. 356-358).

121. The limitations that the General Assembly statutorily imposed on the Dispute Tribunal were established to enable the Organization to operate efficiently. First, the Assembly restricted the Tribunal's ability to suspend decisions in cases of appointment, promotion or termination. The Panel recommended that the Tribunal now be given the power to suspend such decisions until the cases were adjudicated. If this were done, however, considerable uncertainties in critical areas of human resources management could linger for many months, as it is not uncommon for the Tribunal to take one year to dispose of a case on its merits. This would negatively affect operations and the delivery of mandates and could also lead to unnecessary expenditure of public funds through the payment of salaries to individuals who would have otherwise been separated.

122. For good reasons, the Dispute Tribunal was also not given the power to suspend a decision that had already been implemented. For example, the Secretary-General's decision to dismiss a staff member for misconduct is implemented with immediate effect once the staff member is notified of the decision. To grant the Dispute Tribunal the authority to suspend such a decision would have serious financial and operational consequences. Notably, a dismissed staff member can always challenge his or her dismissal before the Tribunal and seek damages.

123. The Panel was also concerned that the Dispute Tribunal's power of suspension had been made "redundant" because the General Assembly had recently amended the Tribunals' statutes to expressly allow for the appeal of Dispute Tribunal orders and to provide that, if an order was appealed, its execution would be suspended (para. 357). However, the Assembly emphasized that this change did not affect the

Dispute Tribunal's authority to order either the suspension of contested decisions or other interim measures (see resolution 69/203, para. 40). The Panel appears not to have considered paragraph 40 of resolution 69/203, and therefore its concern that the recent amendments vitiate the power of the Dispute Tribunal to order temporary relief is misplaced.

*Recommendation 46: Judgments should be issued in two different versions: an official true copy of the original decision delivered to each party and the publication of a redacted version in which the names of managers and staff members referred to therein would be removed (accompanied by a prohibition on any person sharing or divulging a copy of the original judgment) (para. 360).*

124. The Tribunals' statutes and rules of procedure provide for the protection of personal data in the publication of judgments. The Tribunals have discretion as to whether and how to refer to the names of staff members and managers. While mindful of judicial independence, the Secretary-General is concerned about the public exposure of individuals in a way that allows them no means to respond publicly or otherwise. He observes that in some instances functional titles or initials are already being used, a practice that might more adequately address the underlying concern than the one proposed by the Panel.

125. Moreover, in administrative terms, the Secretary-General considers that issuing two different versions of decisions would create significant additional work for the Registries and is not an efficient way to address the issue.

*Recommendation 47: Three additional permanent judges should be appointed to replace the ad litem judges (para. 367).*

126. The Secretary-General agrees with this recommendation. He has indicated in previous reports on the administration of justice that two full-time judges are required in each of Geneva, Nairobi and New York in order to keep abreast of the caseload (see A/69/227, paras. 61 and 62; see also A/68/346, para. 49, and A/67/265 and Corr.1, paras. 31-37).

127. The Secretary-General notes that this measure has long been advocated by the Internal Justice Council (see A/70/188, paras. 70 and 71; A/70/190, para. 31; A/69/205, paras. 152-155; and A/67/98, para. 22). The Council observed that such a measure was fully justified by the size of the caseload and the need to avoid undermining judicial independence through repeated extensions of the ad litem positions.

128. This has also been the position of the Dispute Tribunal judges (see A/68/306, annex II, paras. 6 and 7; see also A/67/538, enclosure I, paras. 8 and 9). The Sixth Committee has also reiterated its concern about the legal aspects of the situation and emphasized the need to find a long-term solution to the question of the composition of the Tribunal that would ensure the sustained efficiency of the performance of the formal system (see A/C.5/69/10).

129. Accordingly, the Secretary-General recommends the addition of three permanent full-time judges to the Dispute Tribunal.

130. Three additional permanent judges would require the same legal officer and legal assistant support currently provided to the three ad litem judges. Accordingly, posts would have to be created in the Dispute Tribunal Registries to replace the

current temporary assistance positions, through the establishment of three additional posts of Legal Officer (P-3) (one in New York, one in Geneva and one in Nairobi), two additional posts of Legal Assistant (General Service (Other level)) (one in New York and one in Geneva) and one additional post of Legal Assistant (General Service (Local level)) (in Nairobi).

*Recommendation 48: More use should be made of panels of three judges of different backgrounds in order to deal with issues of consistency of the case law and procedures applied in adjudicating cases (para. 370).*

*Recommendation 49: Article 10 (9) of the statute of the Dispute Tribunal should be amended in order to allow the President of the Dispute Tribunal, and not the President of the Appeals Tribunal, to refer a case to a three-judge panel (para. 370).*

131. The Secretary-General considers that both of these recommendations are for the Tribunals to consider.

*Recommendation 50: The term of the President of the Dispute Tribunal should be extended to a longer period, for example, three and a half years (para. 371).*

132. The term of the President of the Dispute Tribunal is currently one year. The Secretary-General acknowledges that considerable work is involved in the presidency. He considers that an extension of the term would have a significant impact on the workload of the President and the Dispute Tribunal Registry at that location, and their ability to deal with the ongoing caseload. A presidency of longer than one year at a location with a high caseload could be very challenging. It would also limit the number of judges who would have the opportunity to act as President during their term of office and thus limit the geographical diversity of the presidency.

133. The Secretary-General recommends that the General Assembly consider specifying that the President has authority to monitor the timely delivery of judgments.

*Recommendation 51: The Dispute Tribunal should consider holding hearings in other duty stations as appropriate (paras. 223 and 372).*

134. This recommendation has been addressed above in connection with related recommendation 17.

*Recommendation 52: Cases should be assigned to judges, including half-time judges, at an early stage for proper management of the cases (para. 372).*

135. The Secretary-General agrees with this recommendation.

*Recommendation 53: The Appeals Tribunal Registry should be enlarged with one additional P-3 legal officer (para. 379).*

136. The Panel assessed the workload of the Appeals Tribunal as "heavy and burdensome" (para. 377) and indicated that the reasonable resources and capacity needed by the Tribunal should be provided (para. 378).

137. The Secretary-General concurs with recommendation 53. He has previously made the same recommendation in order to provide needed support to the judges of

the Appeals Tribunal with regard to the ongoing caseload, including the significant increase in the number of interlocutory motions (see A/70/187 and A/69/227). This recommendation was aligned with concerns raised by both the Internal Justice Council (see A/69/205) and the judges of the Appeals Tribunal (ibid., annex II) with regard to the Tribunal's ability to deal with urgent matters between sessions to avoid delay. The size of the Tribunal's caseload, including the number of interlocutory motions, has not decreased since the recommendation was initially made. Indeed, the number of cases received by the Tribunal in 2015 increased in comparison with 2014, while the number of interlocutory motions remained about the same. Accordingly, the Secretary-General recommends that the General Assembly approve the establishment of one additional post of Legal Officer (P-3) in the Appeals Tribunal Registry.

*Recommendation 54: Availability should be included in the profile of candidates for selection as judges of the Appeals Tribunal (para. 380).*

138. The Panel made the recommendation in order to remove "the obstacle to speedy disposal of cases posed by the lack of availability of judges" (para. 380), having heard that it had not been possible to extend the sessions of the Appeals Tribunal because most Appeals Tribunal judges held full-time appointments in their national jurisdictions and were unavailable for longer periods (para. 144). Under the Appeals Tribunal statute and rules of procedure, the President of the Appeals Tribunal has the authority to convoke extraordinary sessions if the number or urgency of the cases so requires. Thus, it is for the Tribunal to determine its sittings. Since the Tribunal's inception, most of the judges have been active sitting judges on national courts. This limits the amount of time they have available to sit in Appeals Tribunal sessions. Indeed, one Appeals Tribunal judge resigned because he could no longer attend the sessions. To include availability as a selection criterion and seek to increase the amount of time the judges sit would likely limit the pool of candidates and could confine it to retired judges, which would limit the diversity of the Tribunal.

*Recommendation 55: To guarantee proper processing of urgent motions, the Appeals Tribunal should either give more power to the President to deal with such matters and to compensate him or her accordingly, probably on a half-time basis, or authorize the Registrar, in coordination with the President, to assign a case at a very early stage to a panel of the Tribunal and identify the presiding and reporting judges, with the latter then being the duty judge for all urgent matters in the case (para. 380).*

139. It appears that the Panel may have misperceived the issue, which is neither a lack of power conferred upon the President nor case assignment, but rather a lack of remuneration for judicial work related to interlocutory motions and for administrative and regulatory work.

140. The Panel was of the view that urgent motions should be dealt with in limine as preliminary issues that would provide early indicators to the parties to proceed or settle, thereby reducing the number of appeals (para. 377). The Secretary-General has noted in his most recent reports (see A/70/187, paras. 70-73, and A/69/227, para. 14) the significant increase in the numbers of interlocutory motions filed before the Appeals Tribunal. Ruling on procedural motions is demanding and time-consuming and requires the judge to review the entire case file. Much of this judicial work must be done between sessions in order to deal with interlocutory matters in a timely manner and avoid delay. This work is not remunerated.

141. The Secretary-General considers that this is not a matter of giving the President more power or assigning cases at an earlier stage; rather, it is a matter of the expenditure of judicial time and effort without remuneration. He recommends that, in addition to the remuneration per judgment, the amount of $600 be paid for the judicial work involved in each interlocutory motion and that the President be paid a monthly stipend of $1,500 during his or her presidency in respect of administrative and other work undertaken.

## L. Interaction between the informal and formal systems (recommendation 56)

*Recommendation 56: To achieve a more integrated justice system, a forum should be set up, under the auspices of the Internal Justice Council, where all the stakeholders of the informal and formal systems would regularly meet to exchange useful information and identify areas for improvement, while respecting one another's roles and independence (para. 391).*

142. The report refers to such stakeholders' meetings being a practice in the World Bank (para. 391). It should be noted that the internal justice council at the World Bank has a different role and composition from those of the body that bears the same name at the United Nations. At the World Bank, the internal justice council is a group of internal stakeholders, while at the United Nations it is composed of three external jurists and staff and management representatives and is tasked with providing its views to the General Assembly on candidates for judges and on the overall functioning of the system.

143. The Secretary-General fully supports the thrust of the recommendation to set up a forum of stakeholders that would strengthen the interaction and collaboration between the formal and informal systems. However, it would not be in line with the mandate of the Internal Justice Council to oversee such a forum and would impinge on its independence and that of the Office of the United Nations Ombudsman and Mediation Services.

144. Currently, there are frequent bilateral contacts between stakeholders in the formal and informal systems that form a natural part of working interactions to strengthen cooperation, streamline procedures and enhance working methods. Furthermore, representatives of the formal and informal systems are brought together by the Office of Administration of Justice to coordinate reporting requirements on the administration of justice for the General Assembly. In the spirit of what the Panel has envisaged by way of strengthening cooperation and information-sharing between the two systems, the role of this informal group is being expanded to include information-sharing and identifying areas for strengthening collaboration, and meetings of the group will be convened more regularly. This will provide a regular forum for collaboration and dialogue, while maintaining the independence of the Internal Justice Council to monitor the functioning of the system and of the Office of the United Nations Ombudsman and Mediation Services to carry out its mandate in an independent and impartial manner.

## M. Key causes of disputes (recommendations 57 and 58)

*Recommendation 57: The Administration should improve policies and processes (paras. 394 and 395).*

145. The improvement of policies and processes in the Secretariat is a matter of ongoing review. In the development of new and revised staff regulations and rules and administrative issuances, experience with the internal justice system is taken into account. The implementation of Umoja will also provide greater consistency among departments, offices and duty stations in administrative processes in the Secretariat. The funds and programmes use comparable enterprise software.

*Recommendation 58: Investigation procedures should be improved and the current peer review process under Secretary-General's bulletin ST/SGB/2008/5 reviewed (para. 399).*

146. The Secretary-General considers that investigative procedures should continue to be improved, as recommended by the Panel. Recent efforts in that regard have been previously reported by the Secretary-General to the General Assembly (see A/68/346, annex V, paras. 14-16).

147. With regard to investigations carried out under Secretary-General's bulletin ST/SGB/2008/5, efforts to replace the peer-based investigations with ones conducted under the auspices of OIOS, referred to in paragraph 16 of A/68/346, annex V, have not moved forward because of cost constraints. OIOS has indicated that it intends to resume providing training to proposed members of lay panels before such individuals undertake investigations under ST/SGB/2008/5. In addition, comprehensive guidelines for managers with regard to their obligations under ST/SGB/2008/5 became available in the *Human Resources Handbook* in October 2014.

148. The Secretary-General is committed to encouraging greater use of informal resolution of workplace (as opposed to sexual) harassment complaints. The guidelines for managers referred to in paragraph 147 above note that even if a formal complaint has been made, it is still possible for the programme manager to explore informal resolution, such as mediation, with the Office of the United Nations Ombudsman and Mediation Services before deciding to initiate a formal investigation. Staff of the Office are available to hold conversations with the parties to provide information about the mediation process. In some cases, and subject to the agreement of both parties to participate in the process, mediation can be an effective and confidential way of resolving a complaint while maintaining productive working relationships.

149. With regard to the procedural aspects of investigations, a revision to the administrative instruction on revised disciplinary measures and procedures (ST/AI/371 and Amend.1) is expected to be promulgated in 2016. The revised administrative instruction will set out key procedures applicable to all internal investigations.

150. The Panel's comments relating to due process afforded to staff members in disciplinary matters are not understood to apply to the funds and programmes, whose investigative entities do not use peer review and which function under different administrative issuances from those cited by the Panel.

# IV. Resource requirements

151. Resource requirements for the proposals described above for the biennium 2016-2017 amount to $2,502,800 (net of staff assessment). The estimated costs associated with the proposals are summarized below by budget section.

Table 1
**Resource requirements by programme budget section**
(Thousands of United States dollars)

| | *2016-2017 initial appropriation* | *Additional requirements* | *2016-2017 revised estimates* |
|---|---|---|---|
| 1.1. Overall policymaking, direction and coordination | 117 428.0 | 2 101.1 | 119 529.1 |
| 29A. Office of the Under-Secretary-General for Management | 22 677.0 | 133.2 | 22 810.2 |
| 29C. Office of Human Resources Management | 70 800.1 | 18.7 | 70 818.8 |
| 29D. Office of Central Support Services | 166 116.1 | 249.8 | 166 365.9 |
| **Net additional requirements** | **377 021.2** | **2 502.8** | **379 524.0** |
| 36. Staff assessment | 482 076.9 | 188.0 | 482 264.9 |
| **Gross total, all budget sections** | **859 098.1** | **2 690.8** | **861 788.9** |

**Section 1, Overall policymaking, direction and coordination**

Table 2
**Additional resource requirements by object of expenditure**
(Thousands of United States dollars)

| | *2016-2017 initial appropriation* | *Additional requirements* | *2016-2017 revised estimates* |
|---|---|---|---|
| Posts | 67 604.9 | 1 081.3 | 68 686.2 |
| Other staff costs | 3 985.7 | – | 3 985.7 |
| Non-staff compensation | 10 864.2 | 796.9 | 11 661.1 |
| Consultants | 654.8 | 70.0 | 724.8 |
| Travel of representatives | 6 040.5 | 18.8 | 6 059.3 |
| Travel of staff | 3 733.0 | 37.5 | 3 770.5 |
| Contractual services | 7 989.0 | 30.5 | 8 019.5 |
| General operating expenses | 1 391.3 | 36.5 | 1 427.8 |
| Hospitality | 525.8 | – | 525.8 |
| Supplies and materials | 285.9 | 8.6 | 294.5 |
| Furniture and equipment | 269.9 | 13.7 | 283.6 |
| Improvement of premises | – | 7.3 | 7.3 |
| Grants and contributions | 14 083.0 | – | 14 083.0 |
| **Total (net of staff assessment)** | **117 428.0** | **2 101.1** | **119 529.1** |

152. The estimated requirements under section 1 for the implementation of the proposals would amount to $2,101,100 (net of staff assessment) and would comprise requirements for: salaries and common staff costs for 13 posts, including 6 posts in the Office of Staff Legal Assistance (2 P-4 and 1 General Service (Other level) and 3 General Service (Local level)), 6 posts in the Dispute Tribunal Registries (3 P-3, 2 General Service (Other level) and 1 General Service (Local level)) and 1 post in the Appeals Tribunal Registry (1 P-3) ($1,081,300); honoraria and compensation of judges ($796,900); consultancy for professional legal editors to prepare summaries and key words of the judgments of the Tribunals ($70,000); the travel of Dispute Tribunal judges to hold more hearings outside Geneva, Nairobi and New York ($18,800); the travel of staff of the Dispute Tribunal Registry and the Office of Staff Legal Assistance to appear in person for hearings ($37,500); and common costs related to the establishment of posts such as rental of premises, information technology services, telecommunications and furniture ($96,600).

**Section 29A, Office of the Under-Secretary-General for Management**

Table 3
**Additional resource requirements by object of expenditure**
(Thousands of United States dollars)

| | *2016-2017 initial appropriation* | *Additional requirements* | *2016-2017 revised estimates* |
|---|---|---|---|
| Posts | 13 687.5 | 124.6 | 13 812.1 |
| Other staff costs | 262.3 | – | 262.3 |
| Consultants | 46.5 | – | 46.5 |
| Travel of staff | 55.0 | – | 55.0 |
| Contractual services | 308.2 | 4.2 | 312.4 |
| General operating expenses | 91.3 | 1.3 | 92.6 |
| Hospitality | 0.8 | – | 0.8 |
| Supplies and materials | 34.8 | 1.0 | 35.8 |
| Furniture and equipment | 46.9 | 2.1 | 49.0 |
| Grants and contributions | 8 143.7 | – | 8 143.7 |
| **Total (net of staff assessment)** | **22 677.0** | **133.2** | **22 810.2** |

153. The estimated requirements under section 29A for the implementation of the proposals would amount to $133,200 (net of staff assessment) and would comprise requirements for salaries and common staff costs for two posts in the Management Evaluation Unit (1 P-3 and 1 General Service (Other level)) ($124,600) and related common costs such as information technology services and stationery ($8,600).

### Section 29C, Office of Human Resources Management

Table 4
**Additional resource requirements by object of expenditure**
(Thousands of United States dollars)

| | *2016-2017 initial appropriation* | *Additional requirements* | *2016-2017 revised estimates* |
|---|---|---|---|
| Posts | 39 106.6 | – | 39 106.6 |
| Other staff costs | 2 867.5 | – | 2 867.5 |
| Consultants | 114.9 | – | 114.9 |
| Travel of staff | 657.0 | 18.7 | 675.7 |
| Contractual services | 26 173.8 | – | 26 173.8 |
| General operating expenses | 673.7 | – | 673.7 |
| Hospitality | 543.6 | – | 543.6 |
| Supplies and materials | 292.1 | – | 292.1 |
| Furniture and equipment | 370.9 | – | 370.9 |
| **Total (net of staff assessment)** | **70 800.1** | **18.7** | **70 818.8** |

154. The estimated requirements under section 29C for the implementation of the proposals would amount to $18,700 (net of staff assessment) to cover the cost of travel for respondent's legal offices to appear in person for hearings.

### Section 29D, Office of Central Support Services

Table 5
**Additional resource requirements by object of expenditure**
(Thousands of United States dollars)

| | *2016-2017 initial appropriation* | *Additional requirements* | *2016-2017 revised estimates* |
|---|---|---|---|
| Posts | 56 771.1 | | 56 771.1 |
| Other staff costs | 2 562.3 | | 2 562.3 |
| Consultants | 317.8 | | 317.8 |
| Travel of staff | 108.3 | | 108.3 |
| Contractual services | 5 180.6 | | 5 180.6 |
| General operating expenses | 98 251.4 | 210.6 | 98 462.0 |
| Hospitality | 5.3 | | 5.3 |
| Supplies and materials | 1 657.9 | | 1 657.9 |
| Furniture and equipment | 1 261.4 | 39.2 | 1 300.6 |
| **Total (net of staff assessment)** | **166 116.1** | **249.8** | **166 365.9** |

155. The estimated requirements under section 29D for the implementation of the proposals would amount to $249,800 (net of staff assessment) to cover centrally managed common costs related to the establishment of posts in New York such as rental of premises and furniture and equipment.

## V. Timeline for implementation

156. The timeline for implementation will depend on the outcome of the deliberations of the General Assembly on the Panel's report and the Secretary-General's comments.

157. In the event that the Assembly approves the recommendation to create three additional permanent Dispute Tribunal judges to replace the ad litem judges, lead time would be required for the Internal Justice Council to nominate candidates and for the Assembly to hold elections, in which case the Secretary-General recommends that the current ad litem judges, together with the staff who support them, be extended for the interim period in order to keep abreast of the caseload. This interim period could be either 6 or 12 months, depending on whether the new Internal Justice Council that will take office in November 2016 decides to recommend judicial candidates from the roster left by the outgoing Council or decides that a new judicial recruitment exercise is required. If the new Council should make recommendations from the roster, it might be possible to hold elections during the resumed part of the seventy-first session. If a new exercise should be required, then elections would not be possible until the main part of the seventy-second session.[1]

## VI. Conclusions and actions to be taken by the General Assembly

158. **The Secretary-General has prepared his comments and recommendations on the basis of the findings and recommendations of the Interim Independent Assessment Panel on the administration of justice after having held consultations with stakeholders in the system, including staff. He considers that the recommendations contained in the present report will enhance the effectiveness of the administration of justice of the Organization. He requests the General Assembly to give due consideration to his proposals and to:**

(a) **Amend article 4 (3) (a) of the statute of the Dispute Tribunal to add the words "and impartial" and to add an article 4 (3) (c) reading, "Be fluent, both orally and in writing, in English or French";**

(b) **Approve the establishment, starting on 1 January 2017, of one additional post of Legal Officer (P-3) and one additional post of Legal Assistant (General Service (Other level)) in the Management Evaluation Unit;**

(c) **Approve the establishment, starting on 1 January 2017, of two posts of Legal Officer (P-4) (one in New York and one in Nairobi), one post of Legal Assistant (General Service (Other level)) (in Geneva) and three posts of Legal Assistant (General Service (Local level)) (one in Addis Ababa, one in Beirut and one in Nairobi) in the Office of Staff Legal Assistance, to be funded from the regular budget;**

(d) **As the alternative to subparagraph (c) above, should the General Assembly decide to regularize the experimental voluntary supplemental funding mechanism, the funds would be used to acquire as many of the additional resources required by the Office of Staff Legal Assistance as possible;**

(e) **Approve the addition of three permanent full-time judges to the Dispute Tribunal and amend article 4 (1) of the statute of the Dispute Tribunal**

[1] See A/71/158, paras. 177-181.

**to read, "The Dispute Tribunal shall be composed of six full-time judges and two half-time judges";**

**(f) Approve the extension of the three current ad litem judge positions and the current incumbent judges pending the nomination of candidates by the Internal Justice Council and the election of the aforementioned three permanent full-time judges by the General Assembly;**

**(g) As the alternative to subparagraph (f) above, in the event that the General Assembly does not approve the addition of three permanent full-time judges to the Dispute Tribunal, approve the extension of the three ad litem judge positions and the current incumbent judges for a period of 12 months, from 1 January to 31 December 2017, in order to allow the Tribunal to keep abreast of its caseload;**

**(h) Approve the establishment, starting on 1 January 2017, of three additional posts of Legal Officer (P-3) (one in New York, one in Geneva and one in Nairobi), two posts of Legal Assistant (General Service (Other level)) (one in New York and one in Geneva) and one post of Legal Assistant (General Service (Local level)) (in Nairobi) in the Dispute Tribunal Registries to support the three new permanent full-time judges in lieu of the temporary staff currently supporting the three ad litem judges;**

**(i) As the alternative to subparagraph (h) above, approve the extension for 2017 of the three positions of Legal Officer (P-3) (one in New York, one in Geneva and one in Nairobi), two positions of Legal Assistant (General Service (Other level)) (one in New York and one in Geneva) and one position of Legal Assistant (General Service (Local level)) (in Nairobi) that support the three ad litem judges;**

**(j) Amend Article 4 (7) of the statute of the Dispute Tribunal to add the words "who shall have the authority, inter alia, to monitor the timely delivery of judgments";**

**(k) Approve the establishment, starting on 1 January 2017, of one additional post of Legal Officer (P-3) in the Appeals Tribunal Registry;**

**(l) Approve the payment of $600 for each interlocutory motion adjudicated by a judge of the Appeals Tribunal;**

**(m) Approve the payment of a stipend to the President of the Appeals Tribunal in the amount of $1,500 per month;**

**(n) Approve additional resources as presented in table 1 in the amount of $2,502,800 (net of staff assessment);**

**(o) Appropriate an additional amount of $2,502,800 (net of staff assessment) under section 1, Overall policymaking, direction and coordination ($2,101,100), section 29A, Office of the Under-Secretary-General for Management ($133,200), section 29C, Office of Human Resources Management ($18,700), and section 29D, Office of Central Support Services ($249,800), of the programme budget for the biennium 2016-2017, as well as an additional amount of $188,000 under section 36, Staff assessment, to be offset by an equivalent amount under income section 1, Income from staff assessment, for the biennium 2016-2017. The amount of $2,502,800 would represent a charge against the contingency fund for the biennium 2016-2017.**